87-785

Supreme Court, U.S.
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No.

In the Supreme Court

OF THE

United States

NOVEMBER TERM 1987

DONALD L. DONOVAN,
Petitioner
vs.
THE STATE OF DELAWARE
Respondent

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF DELAWARE

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Dated: NOVEMBER 13, 1987

QUESTIONS PRESENTED FOR REVIEW

ISSUE I. Did the Supreme Court of Delaware err when it affirmed the ruling and instruction of the enfranchised Superior Court of Delaware, that the petitioner is an enfranchised resident of the state by the classification of enfranchised federal citizen and state citizen thus prevaracating his rights to life, liberty and property as a national citizen in accordance with the naturalization law of the United States with respect to persons of European decent?

ISSUE II. Did the Supreme Court of Delaware err when it affirmed the ruling and instruction of the Superior Court of Delaware that the petitioner is under the colorable legal issues of the enfranchised state and federal government laws and has only a civil right to work, use property of a controlled kind, including the fruits of his own labor and to pursue his own happiness, so long as he does not bring harm to the state, or to do this without permission from one of the state or federal government offices or agencies?

THE PARTIES

The caption in the style of this writ contains the names of all the parties to this proceeding, such parties being Donald L. Donovan and the State of Delaware in combination or trust with any, or all of its agencies and agents.

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No.

In the Supreme Court

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United States

OCTOBER TERM, 1987

DONALD L. DONOVAN,
Petitioner
vs.
STATE OF DELAWARE,
DIVISION OF REVENUE,
Respondent

PETITION OF A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF DELAWARE

The petitioner, Donald L. Donovan herein Donovan, unenfranchised national citizen, comes to this court relying on the Supreme Court case Haines v. Kerner and requests that a Writ of Certiorari be issued to review the opinion of the Supreme Court of Delaware which affirmed the conviction of Donovan on five counts of two sections of the Delaware code related to income tax and occupational license.

Donovan's appeal to this Honorable Court involves the constitutionality of the application of the Delaware code on an unenfranchised national citizen.

Donovan's argument is supported by evidence related to classifications of the citizenry. The State of Delaware has arbitrarily classified Donovan as a federal citizen fraudulently applying federal civil rights law to him through the federal-state contract allowing the unconstitutional federal occupation of

the state. Donovan was not allowed to enter into evidence Supreme Court decisions concerning a freeman, national citizen, natural person, which was vital to his case to prove to the jury that he was not subject to the rules of the enfranchised state.

The questions thus presented to this court is of monumental significance and challenges the lawful power of the State of Delaware and federal government to compel a natural unenfranchised national citizen to file income tax returns and acquire a business license. The application of the taxing system of the Delaware code is a piggyback to Title 26 U.S.C. and entirely dependant on the 14th amendment of the U.S. constitution, which is challenged as not applicable to Donovan, a white person E.G. pure of European decent.

OPINIONS BELOW

The opinion below in the Supreme Court of the State of Delaware was decided on August 17, 1987.

JURISDICTION

Jurisdiction of this court is pursuant to Rule 17. This case on Appeals from the Supreme Court of the State of Delaware.

CONSTITUTIONAL PROVISIONS INVOLVED

Article I, Section 2, U.S. Constitution:
Reads in part; . . . . "free persons" . . . .

Article I, Section 10, U.S. Constitution:
Reads in part: "No state shall . . . . pass any . . . . law impairing the obligation of contracts. . . ."

Article Amendment V, U.S. Constitution:
Reads in part: . . . . "not be deprived of life, liberty, or property, without due process of law;"

Article Amendment IX U.S. Constitution:
"The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

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STATEMENT OF THE CASE

A. PROCEEDING IN THE SUPERIOR COURT

On or about July 9, 1986, Donald L. Donovan, was indicted in a five count indictment. Counts 1, 2, and 3 of the indictment charged that Donovan violated Title 30, Section 1233 of the Delaware Code of 1974. Counts 4 and 5 of the indictment charged that Donovan violated Title 30, Section 2119 of the Delaware code of 1974. In response to the indictment, Donovan filed a motion to dismiss the same, which motion charged that the state had unlawfully applied the Delaware code to him, an unenfranchised national citizen and free person, that the state assumed jurisdiction over him via deceitful acts of fraud, trickery, coercion and threats of boycott forcing him to except federal civil rights via expressed and implied contracts of Residency and Social Security with the state and federal governments thus giving up unalienable rights guaranteed by the U.S. Constitution.[1] Before trial, the Superior Court heard such motion but denied the same.

Donovan also filed a motion to suppress evidence and return of seized property, and a jurisdictional challenge, charging that Donovan did not come under the status of a resident that the Delaware code was refering to since he was claiming his substaintive rights that he has under the arrangements with

[1] Donovan holds that as a free person, unenfranchised national citizen, he has a right to his God given rights and does not come under any federal enfranchised legislation that is being applied to him by the State of Delaware through an unconstitutionally delegated authority to allow the Federal government to occupy the State. Through this Federal legislation Donovan is being denied his soverign right to acquire and possess property of every kind.

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the U.S. Constitution. Also, that after becoming aware that the only possible way that the state would have any right to regulate the citizenry, concerning property rights, and others, was through a contractual agreement, either implied or expressed, and did file with the public records, an Affirmation of Real Enity, recinding any and all contracts or agreements and enfranchisement with the state and federal government. Donovan is bound only to the national and state constitutions and the substitive law thereunder as it applies to the national citizenry.

On or about March 23, 1987, the trial was conducted where the enfranchised prosecutor presented the states case. At the conclusion of the prosecution's case, Donovan moved for an acquittal, but the enfranchised Superior Court denied this motion. Immediately thereafter, the defense presented his case.

Donovan was not allowed to use any Supreme Court ruling as evidence to assist him in explaining his position in the case to the jury. Instead Donovan was forced to summerize what the rulings were about, thus damaging his defense beyond repair. The defense rested.

On March 24, 1987, the Superior Court found Donovan guilty on all counts. On May 1, 1987, Donovan was sentenced and incarcerated.

B. STATEMENT OF FACTS PERTINENT FOR THIS WRIT.

The issues being raised in this writ concerns the fradulent application of the Federal Civil Right Laws on Donovan, an unenfranchised national citizen. These issues were raised in the trial by Donovan but

no argument was allowed by the enfranched judge.

The court case decisions relied on by Donovan in support of his defense were very clear on the subject of classifications of a person, that they cannot be merely arbitrary. See

Nashville, C & St. L. Ry v Taylor, 86 Fed. 168,185 *Interstate Consol St. Ry Co. v Massachusetts,* 207 U.S. 79,28 affirming *Com. v. Ry. Co.* 187 Mass. 436,73 N.E. 530, 11 L.R.A. (N.S.) 973, 2 Ann. Cas. 419 *Magown v. Bank,* 170 U.S. 283, 18 Sup. Ct. 594 42 L. Ed. 1037 *Watson v Maryland* 218 U.S. 173, 30 Sup. Ct. 644, 54 L. Ed. 987 *Jones v Brim,* 165 U.S. 180, 17 Sup. Ct. 282, 41 L. Ed. 677 *Heath & Milligan Mfg. Co. v Worst,* 207 U.S. 338, 28 Sup. Ct. 114, 52 L. Ed. 236, quoting *Mobile County v Kimball,* 102 U.S. 691, 26 L. Ed. 238 *Connolly v Union Sewer Pipe Co.,* 184 U.S. 540, 558, 22 Sup. Ct. 431 in Re *Doo Woon, 18 Fed. 898 Baker v Keck,* D.C. 111, 13 F. Supp. 487 *Earley v. Hershey Transit Co.,* D.C. PA. 55 F. Supp. 981, 982 *Dodd v Lorenz,* 210 Iowa 513, 231 N.W. 422, 424 *Commonwealth Ex Rel. Fortney v Bobrofskie* 329 PA. 44, 196A 489, 490 *Perkins v Guaranty Trust co.* of M.Y., 274 N.Y.250, 8 N.E. 2d 849, 852 *Fisher v Jordan,* C.C.A. Tex 116F 2d 183, 186 *Minick v Minick,* 111 FLA. 469, 149 SO. 483, 488 *Hartzler v Radaka,* 265 Mich. 451, 251 N.W. 544 *Holzer v Deutsche Reichsbahn Gesellschaft,* 159 misc 830, 290 N.Y.S. 181, 191 *2 Poll. 9 Maitl. Hist. E.L. 11 Bouvier Law Dictionary The Federalist Papers,* No. 39: Madison *Van Valkenburg v Brown,* 43 Cal. 43, 13 Am. Rep. 136 *U.S. Government Printing Office: 1986 491-371/20112*

Secondly, the court case decisions were just as clear on the subject of property rights. See

Corfield v Coryell, 4 Wash. C.C. 371, Fed. Cas. No. 3230 *Walker v Sauvinet,* 92 U.S. 90, 23 L. Ed. 678

Slaughterhouse Cases, 16 Wall. (U.S.) 36, 74.21 L. Ed. 394 *The Delaware Code. Monacelli v Grimes,* 48 Del. 122, 99 A. 2d 255 (1953) *Cooley, Const. Lim 284 Woodruff v Tradnall,* 10 How.190 *State Bank of Ohio v Knoop,* 16 id., 369 *Furman v. Nichol,* 8 Wall. 44 *New Jersey v Yard,* 95 U.S. 104 *Economy Plumbing and Heating Co. Inc. v United States,* 420 F. 2d 585 (1972) *Redfield v. Fisher,* 292 Pac. Rep. 813 *Cornellier vl Haverill Shoe Mfgs. Ass'n et al.* 109 N.E. Rep. 643. *Adair v U.S.* 28 Sup. Ct. Rep. 277 *Hale v Hinkel,* 26 Sup. Ct. Rep 279 *U.S.C.A. Const. Amends. 1, 14*Const. Law Key 283 *Murdock v Commonwealth of Pennsylvania,*63 Sup. Ct. Rep. 870.319 U.S. 105 *Union Co. v Cresent City Co.,* 111 U.S. 746, at 756-757 (1883) *McCullock v Maryland,* 4 Wheat, 319 (1819) *Bivens v six unknown agents,* 400 U.S. 862 *Owen v City of Independence* 445 U.S. 622, (1980) *Schechter Poultry Corp. v U.S.,* 295 U.S. 495, 55 S. Ct. 837, 79 L. Ed. 1570 *Synar, et al. vs U.S.; Bowsher v Synar, et al; Wayman v Southard,* 10 Wheat (23 U.S.) 1, 41 (1825) *Smoot v Ry. Co.* 13 Fed. 33.

Each of the above cases provides evidence of the truth that Donovan is a free person, national citizen and is not subject to federal civil laws. Donovan chose to be a self governing free inhabitant and take responsibility of his own actions. He owes no duty to the state or federal government and he expects nothing from government except his protection of life, liberty and property as per the privileges and immunities clause of Art. IV of the United States Constitution. The only possible way that Donovan could have given up or waived his unalienable rights to life, liberty and property would be that he was coerced, intimidated, threatened with boycott and tricked by

government, to enter into contracts, thus giving up his natural rights, and forced to accept civil rights. On the other hand, if Donovan still has his constitutionally guaranteed rights, then the State of Delaware has denied him the said rights and has violated the mandates of the U.S. and Delaware Constitutions, privileges and immunities clauses, thus denying him the very thing that it is supposed to protect; which is totally unconstitutional.

CONCLUSION

The petition for Writ of Certiorari must therefore be granted in the interest of the entire national citizenry.

Respectfully submitted,

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In proper person

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Appendix A

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DONALD L. DONOVAN, Defendant Below, Appellant, v. STATE OF DELAWARE, Plaintiff Below, Appellee.	No. 134, 1987 Court Below: Superior Court of the State of Delaware in and for Sussex County Cr.A. Nos. 86-07-0203 through 0207

Submitted: July 27, 1987
Decided: August 17, 1987

Before MOORE, WALSH and HOLLAND, Justices.

ORDER

This 17th day of August, 1987, it appears to the Court that:

(1) The State of Delaware, appellee, pursuant to Supreme Court Rule 25(a), has moved to affirm the judgment of the Superior Court on the ground that it is manifest on the face of defendant's brief that the appeal is without merit.

(2) Defendant was convicted following a jury trial in the Superior Court in Sussex County of three counts of failing to file a personal income tax return (30 Del. C. § 1233) and two counts of operating a business without a State license (30 Del. C. § 2119). The State presented evidence to the effect that

although the defendant had filed personal income tax returns for the taxable years 1977 to 1980, he had filed no income tax returns for the taxable years 1981 through 1985. The State also presented evidence that defendant had been continuously self-employed in the contracting business in Sussex County from 1982 to 1986 but had not obtained a business license. The State further established defendant's domicile in the State of Delaware. Defendant testified in his own behalf and admitted his Delaware domicile and his failure to secure the required business licenses or to file State income tax returns for the years in question.

(3) Defendant's defense in the Superior Court, and repeated in his brief in this Court, consisted of an attack on the constitutional authority of the State of Delaware to levy income taxes or require business licenses. He also questions both the power of the State to prosecute him and the authority of the judiciary to adjudicate his guilt or innocence with respect to these charges.

(4) Defendant's brief is a hodgepodge of decisional quotations of doubtful relevancy and his appendix contains no reference to the trial proceedings. To the extent his arguments are understandable they are clearly without merit. The State's power to levy taxes is an incident of sovereignty, and does not offend defendant's rights as secured under the United States constitution or the Delaware constitution. *State v. Pinder,* Del. Gen. Sess., 108A 43, 46 (1919). His claim that the trial judge did not afford him a full opportunity to present his legal arguments to the juryis specious. The record reflects that the trial judge afforded the defendant wide latitude in the presentation of his defense. The trial judge's restric-

tion on repetitious and cumulative evidence was a valid exercise of discretion and will not be disturbed on appeal.

(5) It is manifest on the face of appellant's opening brief that to the extent the issues raised by him are factual clearly there is sufficient evidence to support the jury's verdict below. With respect to the legal issues raised, the same are controlled by settled Delaware law.

NOW, THEREFORE, IT IS ORDERED pursuant to Rule 25(a) that the Motion to Affirm be, and the same hereby is, GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

J. Walsh
Justice

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CERTIFICATE OF SERVICE

I, Donald L. Donovan, do hereby certify that a true and correct copy of the foregoing document was mailed to The Supreme Court of Delaware at the Sussex County Courthouse in Georgetown, Delaware, 19947, via certified mail R.R.R. at the United States Post Office.

Date: November 13, 1987

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